

Message Text

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C O N F I D E N T I A L USBERLIN 1592

E.O. 1165: GDS

TAGS: PFOR, PGOV, WB, GW, GE

SUBJECT: FRG-GDR TRANSIT NEGOTIATIONS

REFS: (A) BONN 12759

B) USBERLIN 2316 (1974)

1. SUMMARY: WE CONCUR IN EMBASSY JUDGMENT THAT FRG SHOULD NEGOTIATE NEW TRANSIT TRAFFIC CROSSING POINTS WITH GDR WITHOUT FOUR POWER INVOLVEMENT AND THAT BUNDESBAHN-REICHSBAHN WOULD BE PROMISING CHANNEL TO CONDUCT TALKS ON MAKING ADDITIONAL TRAIN STATIONS AVAILABLE IN WEST BERLIN FOR TRANSIT RAIL TRAFFIC USE. WE WOULD CONSIDER THAT ADDITIONAL CROSSING POINTS WOULD FALL UNDER PROTECTIVE QA UNBRELLA AND THAT BUNDESBahn-REICHSBAHN DISCUSSIONS ON USE OF WEST BERLIN STATIONS WOULD HAVE TO BE MONITORED CLOSELY BY ALLIES TO GUARD AGAINST EROSION OF ALLIED LEGAL POSITION ON STATUS OF REICHSBAHN IN WEST BERLIN, END SUMMARY.

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2. WE CONTINUE TO HOLD VIEWS EXPRESSED IN REF B ON

MEANS BY WHICH ADDITIONAL CROSSING POINTS FOR TRANSIT TRAFFIC MIGHT BE NEGOTIATED. SOVIET COMMITMENT IN PARA II OF QA IS VERY GENERAL: "TRANSIT TRAFFIC BY ROAD, RAIL AND WATERWAYS THROUGH THE TERRITORY OF THE GDR OF CIVILIAN PERSONS AND GOODS BETWEEN THE FRG AND THE FRG WILL BE UNIMPEDED..DETAILED ARRANGEMENTS CONCERNING THIS CIVILIAN TRAFFIC, AS SET FORTH IN ANNEX I, WILL BE AGREED BY THE COMPETENT GERMAN AUTHORITIES." ANNEX I MAKES MAJOR ELEMENTS OF TRANSIT REGIME MORE PRECISE, BUT LIKEWISE PROVIDES THAT IT IS FOR COMPETENT GERMAN AUTHORITIES TO IMPLEMENT AND SUPPLEMENT ARRANGEMENTS.

3. FOUR POWERS CONCLUDED THAT COMPETENT GERMAN AUTHORITIES FOR THIS PURPOSE WERE FRG AND GDR, AND TRANSIT TRAFFIC AGREEMENT (TTA) WAS FOLDED INTO FINAL QUADRIPARTITE PROTOCOL. TTA DOES NOT CONTAIN DEFINITIVE LIST OF TRANSIT FACILITIES, HOWEVER. INSTEAD ARTICLE 3 PROVIDES THAT "TRANSIT TRAFFIC SHALL BE CONDUCTED VIA THE DESIGNATED BORDER CROSSING POINTS AND TRANSIT ROUTES." GDR DECLARED IN PROTOCOL NOTE (PROTOKOLLVERMERK) AT SIGNATURE OF TTA THAT "IN CONNECTION WITH ARTICLE 3 THE LEADER OF THE GDR DELEGATION ADVISES THAT THE PRESENT BORDER CROSSING POINTS FOR TRANSIT TRAFFIC AND TRANSIT ROUTES ARE DESIGNATED. AFTER THE AGREEMENT ENTERS INTO FORCE SUBSEQUENT TRAFFIC IMPROVEMENTS WILL BE POSSIBLE."

4. WE WOULD TAKE THIS AS CLEAR INDICATION THAT COMPETENT GERMAN AUTHORITIES ARE FRG AND GDR AND THAT THEY UNDERSTOOD AT TIME OF TTA THAT THEY MIGHT NEGOTIATE ON DESIGNATING FURTHER CROSSING POINTS WITHIN TTA REGIME. IT ALSO APPEARS CLEAR THAT SUCH ADDITIONALLY DESIGNATED CROSSING POINTS SHOULD ATTAIN QA PROTECTION WITHOUT THEIR BEING ANY NEED FOR FURTHER QUADRIPARTITE ACTION. AS ALREADY NOTED, QA ITSELF LEAVES IT TO COMPETENT GERMAN AUTHORITIES TO WORK OUT IMPLEMENTING ARRANGEMENTS FOR TRANSIT TRAFFIC AMONG THEMSELVES. LANGUAGE OF TTA INCLUDING GDR PROTOCOL NOTE WOULD APPEAR TO ESTABLISH NOT ONLY THAT BORDER CROSSING POINTS AND TRANSIT ROUTES IN EXISTENCE AT TIME TTA WAS SIGNED ARE DESIGNATED IN SENSE OF QA, BUT THAT SUCH FURTHER IMPROVEMENTS, I.E.,

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ADDITIONAL CROSSING POINTS AND TRANSIT ROUTES, AS MIGHT SUBSEQUENTLY BE AGREED BY FRG AND GDR LIKEWISE WOULD BECOME "DESIGNATED" WITHIN SENSE OF QA. SINCE FOUR POWERS HAVE ALREADY ACCEPTED TTA, INCLUDING PROTOCOL NOTE, THERE WOULD APPEAR TO BE NO NEED FOR THEM TO REACH FURTHER AGREEMENT THAT ADDITIONAL CROSSING POINTS OR TRANSIT ROUTES ARE "DESIGNATED" IN ORDER FOR TRANSIT REGIME GUARANTEED BY QA TO APPLY. WE WOULD NOTE THAT,

UNDER THIS INTERPRETATION, TWO GERMAN STATES WOULD BE COMPETENT ONLY TO IMPROVE, NOT TO CUT BACK TRANSIT FACILITIES. PAGE 68 OF COMMENTARY ON QA PREPARED BY ALLIED EMBASSY POLITICAL COUNSELLORS APPEARS TO SUPPORT ABOVE CONCLUSIONS. IT NOTES THAT "AS REGARDS THE PHRASE 'DESIGNATED ROUTES' IN PARAGRAPH 2(B) AND ELSEWHERE, THESE ROUTES ARE CONSIDERED BY THE WESTERN NEGOTIATORS TO BE THOSE NOW IN USE FOR SUCH TRAFFIC OR WHICH MAY BE DECIDED UPON BY THE FRG AND GDR AT SOME FUTURE TIME."

5. COMMENT: WHILE HONECKER'S EFFORT TO ENGAGE SENAT IN NEGOTIATION ON ADDITIONAL CORSSING POINTS IS CONSISTENT WITH GDR EFFORTS TO TREAT WEST BERLIN AS THIRD GERMAN STATE, WE ARE SOMEWHAT SURPRISED BY HIS ARGUMENT THAT FOUR POWERS SHOULD AMEND QA TO TAKE ACCOUNT OF NEW TRANSIT FACILITIES. THIS WOULD APPEAR TO GO AGAINST NORMAL GDR POSITION THAT IT IS COMPETENT TO NEGOTIATE EITHER WITH FRG OR WITH SENAT WITHOUT SOVIET CONCURRENCE. WE WONDER WHETHER HONECKER'S COMMENT MAY NOT REFLECT SOVIET INTENT TO STAY ON TOP OF NEW ROUND OF INNER-GERMAN NEGOTIATIONS.

END COMMENT.

6. WE WOULD AGREE WITH TENTATIVE BONN GROUP CONCLUSION THAT BUNDESBahn-REICHsbahn WOULD BE PROMISING CHANNEL FOR DISCUSSION OF QUESTIONS RELATED TO OPENING ADDITIONAL TRAN STATIONS IN WESTERN SECTORS TO TRANSIT RAIL TRAFFIC. AS FRENCH REP POINTED OUT, PECULIAR LEGAL SITUATION OF REICHsbahn IN WESTERN SECTORS IS BOUND TO BE COMPLICATING FACTOR REGARDLESS OF WHO NEGOTIATES. WE WOULD NOT CONSIDER, HOWEVER, THAT EITHER SENAT, FRG OR BUNDESBah WOULD BE COMPETENT TO NEGOTIATE QUESTIONS RELATED TO STATUS OF REICHsbahn. WHOEVER WESTERN

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NEGOTIATORS IS, ALLIES WOULD NEED TO MONITOR DISCUSSIONS CLOSELY TO ENSURE THAT ALL THAT IS ARRANGED IS FOR SEVERAL NEW STATIONS TO BE AVAILABLE ON TIMETABLE OF TRANSIT TRAFFIC TRAINS. THERE SHOULD BE NOTHING IN ANY AGREEMENT THAT WOULD IMPLY THAT REICHsbahn HAS MORE THAN WHAT AMOUNTS TO FRANCHISE TO MANAGE TRAIN STATIONS IN WESTERN SECTORS SUBJECT TO ULTIMATE ALLIED CONTROL OR THAT STATIONS OR PARTS OF STATIONS BROUGHT BACK INTO OPERATION ARE NOT SUBJECT TO ALLIED LEGISLATION AND CONTROL IN EXACTLY SAME MANNER AS OTHER REICHsbahn OPERATING PROPERTY IN WESTERN SECTORS. BUDESBahn WOULD SEEM TO BE TECHNICAL SERVICE MOST DIRECTLY CONCERNED IN LEGITIMATE SCHEDULING QUESTIONS AND, PROVIDED ARRANGEMENTS ARE MADE TO KEEP ALLIES PROPERLY BRIEFED, WE WOULD THINK IT WOULD HAVE BEST CHANCE OF KEEPING DISCUSSIONS ON TECHNICAL

LEVEL EVEN THOUGH WE ARE NOT SANGUINE THAT GDR WILL KEEP
ITS MINISTRY OF TRANSPORT OUT OF PICTURE.GEORGE

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